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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/484,048 01/18/00 STEEN S 33314WC54893

HM12/1128

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Intellectual Property Group
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Washington DC 20036

EXAMINER

SAUCIER, S

ART UNIT

PAPER NUMBER

1651

DATE MAILED:

11/28/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/484,048

Applicant(s)

Steen

Examiner

Sandra Saucier

Group Art Unit

1651



☐ Responsive to communication(s) filed on _____

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 1 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claim

☒ Claim(s) 1-23 _____ is/are pending in the application

Of the above, claim(s) _____ is/are withdrawn from consideration

☐ Claim(s) _____ is/are allowed.

☐ Claim(s) _____ is/are rejected.

☐ Claim(s) _____ is/are objected to.

☒ Claims 1-23 _____ are subject to restriction or election requirement.

Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☒ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

Claims 1-23 are pending and subject to restriction.

Election/Restriction

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 2, 3, 11-13, drawn to a composition comprising calcium (ion), a colloidosmotically active substance and optionally nitroglycerin, classified in class 435, subclass 1.1 and others depending on active ingredients.
- II. Claims 4, 8, 9, 14, 15, drawn to a composition comprising calcium (ion), a colloidosmotically active substance and optionally nitroglycerin AND heparin or penicillin, classified in class 435, subclass 1.1 and others depending on active ingredients.
- III. Claims 5-7, drawn to a composition comprising calcium (ion), a colloidosmotically active substance and optionally nitroglycerin AND low molecular weight dextran, high molecular weight dextran, glucose, buffer, K^+ , Mg^{++} , Na^+ , Cl^- , classified in class 435, subclass 1.1 and others depending on active ingredients.
- IV. Claim 6, drawn to a composition comprising calcium (ion), a colloidosmotically active substance and optionally nitroglycerin AND dextran 40, glucose, phosphate buffer, K^+ , Mg^{++} , Na^+ , Cl^- , SO_4^{2-} , THAM, classified in class 435, subclass 1.1 and others depending on active ingredients.
- V. Claims 10, 16-20, 22 drawn to a first method of use of the composition of claim 1, namely storing organs, classified in class 435, subclasses 1.1, 1.2, 1.3.
- VI. Claims 21 and 23, drawn to methods of use of a composition comprising 10^{-4} to $10^{-7}M$ nitroglycerin and Ca^{2+} 0.3-1.5mM, classified in class 435, subclasses 1.1, 1.2, 1.3.

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Claim 1 is generic to Groups I, II, III and IV and will be examined with the chosen group.

Please note that while applicants may claim a series of compositions comprising A, A+B, A+B+C, A+B+C+D etc. and expect that this series of claims will be examined together, this is not what applicants have done. Applicant have created a series of claims A, A+B, A+C, A+D which lead to distinct compositions and which have been restricted.

The inventions are distinct, each from the other because of the following reasons:

Inventions V and I-IV are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case, a composition comprising calcium (ion) and a colloidally active substance which is all that is required, may be used for cell culture, see Difco Manual, p. 1136 for a composition comprising agar (a colloidally active substance) and calcium chloride.

The processes of Groups V and VI are distinct from one another because they recite different and distinct solutions which are used.

The several inventions listed above are independent and distinct from one another as they have acquired a separate status in the art and require independent searches, particularly with regard to the literature searches. Clearly, a reference which would anticipate one of the above groups would not necessarily anticipate or even make obvious any of the others.

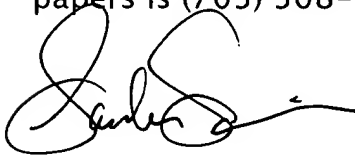
Because these inventions are distinct for the reasons given above restriction for examination purposes as indicated is proper.

Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

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Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filed petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(h).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sandra Saucier whose telephone number is (703) 308-1084. Status inquiries must be directed to the Service Desk at (703) 308-0196. The number of the Fax Center for the faxing of papers is (703) 308-4227.

A handwritten signature in black ink, appearing to read 'Sandra Saucier', with a stylized flourish at the end.

Sandra Saucier
Primary Examiner
Art Unit 1651
November 24, 2000